United States District Court Southern District of Texas

## **ENTERED**

November 29, 2022 Nathan Ochsner, Clerk

## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS CORPUS CHRISTI DIVISION

JEWELL THOMAS,	§
	§
Plaintiff,	§
	§
VS.	§ CIVIL ACTION NO. 2:22-CV-00162
	§
LANETTE LINTHICUM, et al.,	§
	§
Defendants.	§

## ORDER ADOPTING MEMORANDUM AND RECOMMENDATION TO RETAIN CASE AND DISMISS CERTAIN CLAIMS

On October 14, 2022, United States Magistrate Judge Julie K. Hampton issued her "Memorandum and Recommendation to Retain Case and Dismiss Certain Claims" (M&R, D.E. 11). The Plaintiff was provided proper notice of, and opportunity to object to, the Magistrate Judge's M&R. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); General Order No. 2002-13. No objections have been timely filed.

When no timely objection to a magistrate judge's M&R is filed, the district court need only satisfy itself that there is no clear error on the face of the record and accept the magistrate judge's M&R. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citing *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996)).

Having reviewed the findings of fact and conclusions of law set forth in the Magistrate Judge's M&R (D.E. 11), and all other relevant documents in the record, and finding no clear error, the Court **ADOPTS** as its own the findings and conclusions of the

Magistrate Judge. Accordingly, for purposes of § 1915A and §1915(e)(2), the Court

**RETAINS**:

(1) Plaintiff's Eighth Amendment deliberate indifference claims against

Dr. Lanette Linthicum, Dr. Isaac Kwarteng, Jerry Sanchez, and Bobby

Lumpkin in their individual and official capacities; and

(2) Plaintiff's Americans with Disabilities Act and Rehabilitation Act

(ADA/RA) claims against Dr. Lanette Linthicum, Dr. Isaac

Kwarteng, Jerry Sanchez, and Bobby Lumpkin in their official

capacities.

The Court further **ORDERS** that:

(1) Plaintiff's § 1983 claims for money damages against Dr. Lanette

Linthicum, Dr. Isaac Kwarteng, Jerry Sanchez, and Bobby Lumpkin

in their official capacities are **DISMISSED** without prejudice as

barred by the Eleventh Amendment;

(2) Plaintiff's ADA/RA claims against Dr. Lanette Linthicum, Dr. Isaac

Kwarteng, Jerry Sanchez, and Bobby Lumpkin in their individual

capacities are **DISMISSED** with prejudice as frivolous and/or for

failure to state a claim for relief.

ORDERED on November 29, 2022.

UNITED STATES DISTRICT JUDGE